

FINAL MINUTES
State Board of Education
November 12-13, 2003

Thursday, November 13, 2003

California Department of Education
1430 N Street, Room 1101
Sacramento, California

Members Present

Reed Hastings, President
Joe Nuñez, Vice President
Robert J. Abernethy
Donald Fisher
Brent Godfrey
Nancy Ichinaga
Carol S. Katzman
Luis J. Rodriguez
Suzanne Tacheny
Curtis Washington

Members Absent

Vacancy

Closed Session

The State Board met in Closed Session from 8:08 a.m. to 8:42 a.m.

Call to Order: Public Session

President Hastings called the Public Session to order at 9:00 a.m.

Salute to the Flag

Mr. Godfrey led the Board, staff, and audience in the Pledge of Allegiance.

Announcements/Communications

President Hastings announced that Items 13, 15, and 22 would be on the agenda for the day; Item 48 would be presented at 10:00 a.m.; and Item W-5 was withdrawn.

Closed Session Report

Ms. Steentofte reported that the State Board heard updates on *Daniel v. State of California*; *Pazmiño v. California State Board of Education*; and *Williams v. State of California*. No actions were taken. The State Board also heard an update on *Ocean View School District v. State Board of Education* and took action to reject a proposed settlement agreement. Finally, the State Board heard an update on *Acevedo v. State of California*, and related cases, and took action not to appeal the decision.

ITEM 13	<i>No Child Left Behind (NCLB) Act of 2001</i> : Includes, but not limited to, update on Consolidated State Application.	INFORMATION ACTION
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Camille Maben, CDE Special Project Coordinator, provided an update. She noted that the Department had started working with the State Board staff on ways to improve California's state plan (i.e., amending the plan).

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Bill Padia, Policy and Evaluation Division, reported on Phase II of the Annual Yearly Progress (AYP). The results would be released on Friday, November 14, 2003, on the CDE Web site. Mr. Padia summarized the participation rate appeals process. Out of 373 appeals, approximately 40 percent were approved, 45 percent were denied, and 15 percent were still pending data corrections through the contractor.

The following individuals addressed the Board:

Stephen Rhoads, Strategic Education Services

Sherrill Huffnagel, Superintendent, Delano Joint Union High School District

Alan Martens, Associate Superintendent, Chaffey Union High School District

President Hastings commented that the problems with the participation rates on CAHSEE are the tight window of administration and limited make-up opportunities. Mr. Flores stated that for 2004, the examination would be reduced from three days to two days, one day for English-language arts and one day for mathematics. A census administration is scheduled for February and March. Schools that administer the test in February may use March as their makeup opportunity. An administration is also scheduled in May as a makeup opportunity for schools that are scheduled in March.

Anne Just, Title I Policy and Partnerships Office, reported on the program improvement appeals. Out of 193 appeals received, 52 were approved. The majority of appeals came in under the category of statistical error of participation rate. Another round of appeals will be coming in mid-November.

No action was taken on this item.

ITEM 22	Academic Performance Index (API): Report on Growth for 2002-03.	INFORMATION
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Mr. Padia reported that 78 percent of schools made their API growth targets and 90 percent of the schools made improvement in their API. President Hastings asked Mr. Padia about the possibility of releasing the API before the AYP next year. He requested that Mr. Padia return in January 2004 with some ideas on this issue.

No action was taken on this information item.

ITEM 15	No Child Left Behind Act of 2001: Approve Supplemental Educational Service Providers (required by Title 1, Section 1116(e)).	INFORMATION ACTION
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Mr. Barankin explained the application process. He provided the breakouts of the providers (99 private, 63 LEAs, four colleges and universities, four faith organizations, and one library). Ms. Belisle clarified that the providers being added were on a one-year list that expires at the end of June 2004. The regulations regarding supplemental service providers should be brought to the Board in January 2004.

- ACTION: Mr. Abernethy moved that the State Board approve the list of Supplemental Educational Service Providers presented in the last minute memorandum to be included on the

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list of providers for 2003-04. Ms. Katzman seconded the motion. The motion was approved by unanimous vote.

Proposed Consent Items (Items 44 and 45)

ITEM 44	2004 Health Primary Adoption of Instructional Materials: Revised Timeline.	ACTION
ITEM 45	2005 History-Social Science Primary Adoption Timeline.	ACTION

- ACTION: Mr. Rodriguez moved that the State Board approve the changes to the 2004 Health Primary Adoption Timeline and the 2005 History-Social Science Primary Adoption Timeline as presented in Items 44 and 45, respectively. The motion included authority for the Executive Director of the State Board to approve any minor or technical changes in these timelines that may be necessary without the changes having to be presented to the State Board for action. Mr. Washington seconded the motion. The motion was approved by unanimous vote.

ITEM 46	2003 Foreign Language Primary Adoption of Instructional Materials: Curriculum Commission Recommendations.	ACTION PUBLIC HEARING
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Karen Yamamoto, Chair of the Curriculum Commission, provided historical background. Edith Crawford, Chair of the Foreign Language Committee, thanked all those involved in the adoption. Ms. Crawford explained the process, which included the legal and social compliance review, in-depth training, and review for alignment with the language continuum.

President Hastings called the Public Hearing to order at 9:49 a.m.

The following individuals addressed the Board:

Steve Marban, Vice President, School Division, Santillana USA Publishing
Pamela Dixon, Regional Manager, Western Region, School Division, Santillana USA Publishing
Harriet Young, Principal of Bear Flag Elementary School
Hilary Ravis-Randall, parent/teacher
Martha Zaragoza Diaz, California Association for Bilingual Education

President Hastings adjourned the Public Hearing at 10:06 a.m.

Mary Coronado Calvario, Curriculum Commission, reported on the denial of the Santillana publication submission. The Board held an in-depth discussion on the matter. Ms. Tacheny and Ms. Katzman thanked the Curriculum Commission and the Instructional Materials Advisory Panel (IMAP) and Language Experts (LE) for their work.

President Hastings explained that this is an issue of whether a publication meets the guidelines of adoption. Ms. Belisle stated for the record that the Board in the past has been the subject of litigation over these issues. There is a well-delineated process on how to get a textbook adopted in the state and there is no misunderstanding in any of our documents that an IMAP report cannot be relied upon. Ms.

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Belisle stated that she does not want to give the publishing industry the misunderstanding that they have anything they can rely on at the IMAP level. The process ends with the adoption by the State Board.

- MOTION MADE: Ms. Tacheny moved that the State Board take the following actions regarding the 2003 Foreign Language Primary Adoption:
 - (1) Adopt and reject the Foreign Language instructional materials submissions in accordance with the recommendations of the Curriculum Development and Supplemental Materials Commission (Curriculum Commission).
 - (2) Approve as its written explanation of the reasons for rejecting each of the submissions not adopted that the State Board found each such submission did not adequately meet the criteria for adoption taking into account the totality of the information received, including, but not limited to, the reasons presented by the Curriculum Commission.
 - (3) Approve the Curriculum Commission's report (amended as appropriate) as the final report of the 2003 Foreign Language Primary Adoption.
 - (4) Find that fewer than five submissions met the criteria for adoption for kindergarten through grade 5, and accept the review conducted by the Curriculum Commission and CDE staff of the degree to which the criteria and procedures used to evaluate the submitted materials were consistent with the State Board's adopted curriculum framework, in accordance with Education Code Section 60200(e)(2).

Mr. Abernethy seconded the motion.

- MOTION TO AMEND FAILS: Mr. Rodriguez moved to amend the main motion to create an exception to the first stated action for the purposes of adopting (rather than rejecting) *Nuevo Siglo de Español* (Grades K-5) by Santillana Publishing Company for stages 1, 2, and 3. Mr. Washington seconded the motion to amend. The motion to amend failed by a vote of 3-7. Mr. Godfrey, Mr. Rodriguez, and Mr. Washington voted in favor of the motion.
- ACTION: The State Board was presented the main motion – as made by Ms. Tacheny and seconded by Mr. Abernethy – that the State Board take the following actions regarding the 2003 Foreign Language Primary Adoption:
 - (1) Adopt and reject the Foreign Language instructional materials submissions in accordance with the recommendations of the Curriculum Development and Supplemental Materials Commission (Curriculum Commission).
 - (2) Approve as its written explanation of the reasons for rejecting each of the submissions not adopted that the State Board found each such submission did not adequately meet the criteria for adoption taking into account the totality of the information received, including, but not limited to, the reasons presented by the Curriculum Commission.
 - (3) Approve the Curriculum Commission's report (amended as appropriate) as the final report of the 2003 Foreign Language Primary Adoption.

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- (4) Find that fewer than five submissions met the criteria for adoption for kindergarten through grade 5, and accept the review conducted by the Curriculum Commission and CDE staff of the degree to which the criteria and procedures used to evaluate the submitted materials were consistent with the State Board's adopted curriculum framework, in accordance with Education Code Section 60200(e)(2).

The motion was approved by unanimous vote.

Mrs. Ichinaga acknowledged the Curriculum Commission for all its hard work.

ITEM 48	Presidential Awards for Excellence in Mathematics and Science Teaching (PAEMST).	INFORMATION
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President Hastings and Superintendent O'Connell expressed their congratulations and presented certificates to the 2002 National Awardees (Pam Mason, Charaline Maxim, Louise Stivers and Mary Wuerth) and the 2003 California State Finalists (Eric Burtson, Ana England, Janet English and Mike Fischer).

ITEM 47	English Language Development Guide for <i>SRA Open Court 2002</i> .	INFORMATION
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Tom Adams, Curriculum Framework and Instructional Resources Division, provided an update on *Open Court's* progress in getting new material to the field. The first installment was received from McGraw Hill. All materials are targeted to be accepted and reviewed by December 2003 and distributed in January 2004.

No action was taken on this information item.

ITEM 50	Report of 2003 Physical Fitness Test (PFT) Statewide Test Results.	INFORMATION
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Mr. Flores reported on the results for grades 5, 7 and 9. Only one-fourth of California students met all six of the standards. The indicators of aerobic capacity were met by about one-half of California students. The students are failing the body mass index or body composition portion of the test. These are leading to future health issues (i.e. Type II Diabetes and coronary disease issues). The Superintendent raised this as a challenge and encouraged schools to use the data available to them in order to define, refine, and improve their physical fitness programs.

Ms. Katzman suggested bringing back the Healthy Kids program that was developed a few years ago. President Hastings requested an agenda item in January 2004 on physical education.

No action was taken on this information item.

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ITEM 49	National Assessment of Educational Progress (NAEP): 2003 Data Release.	INFORMATION
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Eric Zilbert, Standards and Assessment Division, NAEP Coordinator, conducted a PowerPoint presentation on the NAEP 2003 Mathematics and Reading results.

No action was taken on this information item.

WITHDRAWN CONSENT WAIVER (WC-1)

CARL D. PERKINS VOCATIONAL & APPLIED TECHNOLOGY EDUCATION ACT

ITEM WC-1	Request by Waterford Unified School District for a waiver of Section 131 (d)(1) of the Carl D. Perkins Vocational and Applied Technology Education Act of 1998. (Public Law 105-332) CDSIS-5-9-2003 (Recommended for APPROVAL)	ACTION
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Judy Pinegar, Waivers Office, announced that this item was withdrawn by the district.

CONSENT WAIVERS (Items WC-2 through WC-8)

CARL D. PERKINS VOCATIONAL & APPLIED TECHNOLOGY EDUCATION ACT

ITEM WC-2	Request by Silver Valley Unified School District for a waiver of Section 131 (d)(1) of the Carl D. Perkins Vocational and Applied Technology Education Act of 1998. (Public Law 105-332) CDSIS-7-9-2003 (Recommended for APPROVAL)	ACTION
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FEDERAL WAIVER

ITEM WC-3	Request by Anaheim City School District to waive Title IV, Part A, Section 4115 (a)(1)(C) to use Safe and Drug Free Schools and Communities (SDFSC) funds to support the cost of You Can Do It! Education , a program to help children achieve to the best of their ability. CDSIS-Fed-03-2003 (Recommended for APPROVAL WITH CONDITIONS)	ACTION
ITEM WC-4	Request by Redondo Beach Unified School District to waive No Child Left Behind Act (NCLB); Title IV, Part A, Section 4115 (a)(1)(C) to use Safe and Drug Free Schools and Communities funds to support the cost of Hooked on Health a kindergarten through sixth grade health education program. CDSIS-Fed-04-2003 (Recommended for APPROVAL WITH CONDITIONS)	ACTION

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INSTRUCTIONAL MATERIALS SUFFICIENCY (Audit Findings)

ITEM WC-5	Request by two school districts for a retroactive waiver of <i>Education Code</i> (EC) Section 60119 regarding Annual Public Hearing on the availability of textbooks or instructional materials. The district had an audit finding for fiscal year 2002-2003 that they 1) failed to hold the public hearing, or 2) failed to properly notice (10 days) the public hearing and/or 3) failed to post the notice in the required three public places. CDSIS-14-7-2003 Turlock Joint Elementary SD CDSIS- 5-8-2003 Woodville Union SD (Recommended for APPROVAL)	ACTION
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REGIONAL OCCUPATIONAL CENTER

ITEM WC-6	Request by the San Antonio Regional Occupational Program to waive <i>Education Code</i> (EC) Section 52314.6 regarding the 3% limit on enrollment of students under the age of 16, in the Regional Occupational Program (ROP) (increase the number of 9th and 10th grade students from 3% to 10%). CDSIS-6-9-2003 (Recommended for APPROVAL WITH CONDITIONS) <i>Education Code</i> (EC) Section 33051(c) will apply	ACTION
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SCHOOL IMPROVEMENT FUNDS (equalization)

ITEM WC-7	Request by the Capistrano Unified School District to waive <i>Education Code</i> (EC) Section 62002 (sunset provision) and 52046(b)(3) in order to share and coordinate the use of School Improvement funds between San Clemente High School and five other high schools in the district. CDSIS-1-8-2003 (Recommended for APPROVAL)	ACTION
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SCHOOL SITE COUNCIL

ITEM WC-8	Request by the Igo-Ono-Platina Union Elementary School District for a waiver of <i>Education Code</i> (EC) Section 52852, allowing one joint school site council to function for two small elementary schools. CDSIS-8-8-2003 Recommended for APPROVAL	ACTION
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Ms. Pinegar provided background information.

- ACTION: Mr. Abernethy moved that the State Board approve the requests in Items WC-2 through WC-8 as recommended by CDE staff. The motion included the conditions recommended by CDE staff regarding Items WC-3, WC-4, and WC-6. The motion recognized that the

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provisions of Education Code Section 33051(c) would apply to the request in Item WC-6, and that the CDE staff write-up under that item erroneously stated that the waiver would be for one year only. The motion also recognized that Item WC-1 had been withdrawn. Mr. Godfrey seconded the motion. The motion was approved by unanimous vote.

PROPOSED CONSENT WAIVERS (Items W-2 through W-4, W-7 through W-8, W-13)

EQUITY LENGTH OF TIME

ITEM W-2	Request by Pioneer Union School District for a renewal waiver of <i>Education Code</i> (EC) Section 37202, equity length of time requirement, to allow a half-year full day kindergarten program at Grizzly Pines Elementary School . CDSIS-19-7-2003 (Recommended for APPROVAL WITH CONDITIONS) <i>Education Code</i> (EC) Section 33051(c) will apply	ACTION
ITEM W-3	Request by Fresno Unified School District for a renewal waiver of <i>Education Code</i> (EC) Section 37202, equity length of time requirement to allow a full day kindergarten pilot program at Burroughs, Greenberg and Winchell Elementary Schools . CDSIS-3-9-2003 (Recommended for APPROVAL WITH CONDITIONS)	ACTION

EXTENDED SCHOOL YEAR (SPECIAL EDUCATION)

ITEM W-4	Request by Anaheim City School District for a renewal to waive <i>Title 5, California Code of Regulations, Section 3043(d)</i> requiring 20 school days (4 hours each) of attendance for extended school year for Special Education students. CDSIS-9-8-2003 (Recommended for APPROVAL WITH CONDITIONS)	ACTION
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INSTRUCTIONAL MATERIALS SUFFICIENCY (Audit Findings)

ITEM W-7	Request by Franklin Elementary School District for a retroactive waiver of <i>Education Code</i> (EC) Section 60119 regarding Annual Public Hearing on the availability of textbooks or instructional materials. The district had an audit finding for fiscal year 2000-2001 that although the public hearing was held, the district failed to pass a resolution. This is the second year in a row for this district as they had the same audit finding in fiscal year 2001-2002. CDSIS-9-7-2003 (Recommended for APPROVAL)	ACTION
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ITEM W-8	Request by Elk Hills School District for a retroactive waiver of Education Code (EC) Section 60119 regarding Annual Public Hearing on the availability of textbooks or instructional materials. The district had an audit finding for fiscal year 2001-2002 that they failed to hold the public hearing and make a resolution. A subsequent 2002-2003 resolution revealed an insufficiency of textbooks. CDSIS-34-2-2003 (Approval for Recommendation with CONDITIONS)	ACTION
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9th GRADE CLASS SIZE REDUCTION (Morgan-Hart)

ITEM W-13	Request by Long Beach Unified School District to waive <i>Education Code (EC) Section 52084 (b) and 52086 (a)</i> under the Morgan-Hart Class Size Reduction Act to permit targeted students to receive intensive instruction through a full year two period core English and/or math course staffed at a 20 to 1 ratio. CDSIS-2-9-2003 (Recommended for APPROVAL WITH CONDITIONS)	ACTION
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Ms. Pinegar announced the proposed consent waivers.

- ACTION: Mr. Abernethy moved that the State Board approve the requests in Items W-2, W-3, W-4, W-7, W-8, and W-13 as recommended by CDE staff. The motion included the conditions recommended by CDE staff regarding Items W-2, W-3, W-4, W-8, and W-13. The motion recognized that the provisions of Education Code Section 33051(c) would apply to the request in Item W-2. The motion also recognized that a revised CDE staff recommendation had been received for Item W-13 in a last minute memorandum. Ms. Katzman seconded the motion. The motion was approved by unanimous vote.

WITHDRAWN WAIVERS (W-1 AND W-5)

COMMUNITY DAY SCHOOL (co-location)

ITEM W-1	Request by the Dixon Unified School District for a waiver of <i>Education Code (EC) Section 48661(a)</i> relating to the placement of a community day school on the same site as a continuation high school. CDSIS-9-8-2003 (Recommended for APPROVAL WITH CONDITIONS)	ACTION
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FEDERAL WAIVERS – SAFE AND DRUG FREE

ITEM W-5	Request by Magnolia School District to waive No Child Left Behind Act (NCLB); Title IV, Part A, Section 4115 (a)(1)(C) to use Safe and Drug Free Schools and Communities funds to support the cost of Here’s Looking At You , a kindergarten through sixth grade prevention program. CDSIS-Fed-05-2003 (Recommended for DENIAL)	ACTION
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Items W-1 and W-5 were withdrawn by their districts.

NON-CONSENT WAIVERS (W-6, W-9 through W-13)

FEDERAL WAIVERS – SAFE AND DRUG FREE

ITEM W-6	Request by Placentia-Yorba Linda Unified School District to waive No Child Left Behind Act (NCLB); Title IV, Part A, Section 4115 (a)(1)(C) to use Safe and Drug Free Schools and Communities funds to support the cost of Here’s Looking At You a kindergarten through sixth grade prevention program. CDSIS-Fed-06-2003 (Recommended for DENIAL)	ACTION
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- ACTION: Mr. Nuñez moved that the State Board deny the request in Item W-6 as recommended by CDE staff. Mr. Rodriguez seconded the motion. The motion was approved by unanimous vote.

INSTRUCTIONAL MATERIALS (Schiff-Bustamante)

ITEM W-9	General waiver request of <i>Education Code</i> (EC) Sections 60450 (b) and 60451(b) – Schiff-Bustamante Standards-Based Instructional Materials Program by Palo Alto Unified School District to purchase non-adopted Instructional Resources (<i>FOSS, Grades K-5, California Edition</i>) using Schiff-Bustamante fund. CDSIS-37-5-2003 (Recommended for PROVISIONAL APPROVAL)	ACTION
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Mr. Adams provided background information.

President Hastings requested Board staff to work with the Department on a general policy for very high-performing districts, which are successful, to get the flexibility they want. Ms. Belisle clarified that this would be a generalized policy relative to instructional materials. She indicated that she had previously discussed this issue with Mr. Adams and Deputy Superintendent Sue Stickel. The Board was asking for a policy on how to treat high performing districts.

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The following individuals addressed the Board:

Cynthia Pino, Assistant Superintendent, Palo Alto
Rachel Jordan, Science Resource Specialist

- **ACTION:** Recognizing that the Palo Alto Unified School District received funding under the Schiff-Bustamante Standards-Based Instructional Materials Program in 2002-03 (Education Code Sections 60450 to 60453), and recognizing that the affected statutes are no longer operative, Ms. Katzman moved that the State Board retroactively approve the request in Item W-9 to waive Education Code Sections 60450(b) and 60451(b) as those sections read in 2002-03 for purposes of allowing the district to use 2002-03 funds allocated to it under the Schiff-Bustamante Standards-Based Instructional Materials Program to purchase the Full Option Science System (FOSS), Grade K-5, California Edition. As requested by the district, this waiver shall be effective from July 1, 2002, through June 30, 2007. The motion recognized the exceptionally high achievement of the district's students as a significant factor considered in approving the request. Mr. Washington seconded the motion. The motion was approved by unanimous vote.

INSTRUCTIONAL MATERIALS FUNDING REALIGNMENT PROGRAM (IMFRP)

ITEM W-10	Petition request under <i>Education Code</i> (EC) Sections 60241(d) and 60200(g) to waive Education Code (EC) Section 60242(a)(1) and 60422(a) by Ontario-Montclair School District to purchase Instructional Resources (<i>Success For All K-1</i>), for Central, Del Norte, Lincoln and Moreno Elementary Schools under the Instructional Materials Funding Realignment Program (IMFRP) monies. CDSIS-29-5-2003 (Pending review of materials by a member of the Curriculum Commission)	ACTION
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Mr. Adams provided background information for Items W-10 through W-12. The Board discussed the level of student achievement at the four schools for which the waiver was sought.

The following individuals addressed the Board:

Dana Griggs, Assistant Superintendent, Ontario-Montclair
Kathy Stecher, Principal, Moreno Elementary School
Karen Neiber, Curriculum Coordinator, Ontario-Montclair
Lilly Lemol, Success for All

- **ACTION:** Mr. Abernethy moved that the State Board deny the petition in Item W-10. Mrs. Ichinaga seconded the motion. The motion was approved by a vote of 7-1-2. Mr. Rodriguez voted against the motion. Mr. Godfrey and Ms. Katzman did not vote on the motion.

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ITEM W-11	Petition request under <i>Education Code</i> (EC) Sections 60241(d) and 60200(g) to waive Education Code (EC) Section 60242(a)(1) and 60422(a) by Oakley Union School District to purchase Instructional Resources (<i>Success For All K-1, edition 2</i>), for Gehringer Elementary School with Instructional Materials Funding Realignment Program (IMFRP) monies. CDSIS-52-5-2003 (Pending review of materials by a member of the Curriculum Commission)	ACTION
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Ms. Pinegar provided background information.

The following individuals addressed the Board:

Carol Boyd, Assistant Superintendent, Oakley Unified School District
Tiffany Bleskey, Vice Principal, Gehringer Elementary School
Annette Lewis, parent

Ms. Tacheny noted that the Board needed to consider that in creating a market, the textbook industry has an overwhelming incentive to create materials that are generic to sell in any state. The Board, in protecting the instructional materials resources, needs to create a market that encourages people to invest in California standards.

- ACTION: Mrs. Ichinaga moved that the State Board deny the petition in Item W-11. Mr. Abernethy seconded the motion. The motion was approved by a vote of 8-1-1. Mr. Rodriguez voted against the motion. Mr. Godfrey did not vote on the motion.

ITEM W-12	Petition request under <i>Education Code</i> (EC) Sections 60421(d) and 60200(g) Section 60242(a)(1) and 60422(a) by Edison Charter Academy to purchase non-adopted Instructional Resources (<i>Success For all K-5</i>) using Instructional Materials Funding Realignment Program (IMFRP) monies. CDSIS-7-6-2003 (Pending review of materials by a member of the Curriculum Commission)	ACTION
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Ms. Pinegar provided background information.

- ACTION: Mr. Abernethy moved that the State Board deny the petition in Item W-12. Ms. Tacheny seconded the motion. The motion was approved by a vote of 8-0-2. Mr. Godfrey and Mr. Rodriguez did not vote on the motion.

Adjournment of the Meeting

President Hastings adjourned the meeting at 12:03 p.m.